

## REMARKS

This reply is in response to the Final Office Action dated March 3, 2010. Claims 58-62, 64, 65, and 73-85 are pending in the application and stand rejected.

Applicant has canceled claims 78 and 84 without prejudice. Applicant has also amended claims 58, 64, 65, 73, and 80 and added new claim 86 to more clearly recite aspects of the invention and/or to correct matters of form. No new matter has been added.

Applicant has amended Figures 2H and 2I to properly identify the tethers 19. No new matter has been added.

Applicant has also amended paragraphs [Para 31], [Para 40], and [Para 42] to provide a reference numeral for the tethers recited in claim 61 and to harmonize the specification with the Figures. No new matter has been added.

Entry of the foregoing amendments and reconsideration of the claims in light of the remarks below is respectfully requested.

### **Finality of Office Action**

Applicant respectfully traverses the "Final" designation of the current Office Action dated March 3, 2010, as improper. The examiner states, "The finality of the office action mailed 11/18/09 has been withdrawn." Page 2 (emphasis omitted). As acknowledged by the examiner in the Office Action, the rejections of base claims 58, 73, and 80 are based on new grounds. *See* Page 7. The examiner's new grounds for rejection, however, were not necessitated by any amendment implemented by Applicant, since Applicant did not amend any claim in Applicant's Response of February 18, 2010. Furthermore, it is not apparent nor was it stated whether the new grounds of rejection are based on information filed in a previous information disclosure statement. MPEP § 706.07(a). Accordingly, the finality of the current Office action is premature and Applicant respectfully requests its withdrawal.

### **New Matter**

The examiner refused to enter amendments submitted in Applicant's Response of February 18, 2010 directed to the tether system of claim 61 in Replacement sheet 4 of 11 and paragraphs [0031], [0040], and [0042] of the specification, asserting the amendments are directed to new matter.

Applicant respectfully disagrees and traverses. "In establishing a disclosure, applicant may rely not only on the description and drawing as filed but also on the original claims if their content justifies it." MPEP § 608.01(I). As originally filed, claim 5 recited "a tether system to retain said pipeline in position and to resist forces of undersea currents." Moreover, while not specifically providing a reference numeral for the tether system, paragraphs [0008], [0031], and [0040] of the specification as originally filed each explicitly disclose the tether system and describe its basic function. In particular, paragraph [0031] states, "Such tethers can be installed and secured using methods and apparatuses well known to one skilled in the art." Installing and securing tethers 19 (as shown in replacement sheet 4 of 11 filed with Applicant's Response of February 18, 2010) is at least one method known to those skilled in the art. Therefore, detailing where a typical tether system would be installed in sheet 4 of 11 and providing a corresponding reference numeral for the tether system in paragraphs [0031], [0040], and [0042] does not constitute new matter, and the amendments should be entered.

Furthermore, to more completely respond to the examiner's objection, Applicant respectfully requests that the examiner clearly identify the subject matter in the amended specification that is considered new matter, in accordance with MPEP § 608.04. Applicant also respectfully requests that the examiner provide Applicant with a complete, explicit reasoning for denying entry of Applicant's amendments to Replacement sheet 4 of 11, in accordance with MPEP § 608.02(h).

Accordingly, Applicant respectfully requests reconsideration and entry of the amended Figures 2H and 2I and paragraphs [Para 31], [Para 40], and [Para 42] of the specification.

### **Claim Rejections – 35 U.S.C. § 112**

Claim 61 stands rejected under 35 U.S.C. § 112 ¶1 because the originally filed disclosure does not have a basis for claim 61 and therefore constitutes new matter.

Applicant respectfully disagrees and traverses the rejection. As defined in MPEP § 608.04(a), new matter constitutes subject matter not disclosed in the original specification, claims, or drawings. Originally filed claim 5 (the content of which parallels claim 61) recited "a tether system to retain said pipeline in position and to resist forces of undersea currents." Moreover, originally filed (and current) paragraphs [0008], [0031], and [0040] each explicitly disclose the tether system and describe its basic function. In particular, paragraph [0040] teaches: "To prevent pipeline 18 from being displaced significantly by environmental forces, tethers (not shown) or other mooring systems can be used." Accordingly, the subject matter of claim 61 is not new matter but is sufficiently supported in the originally-filed claims and specification. For at least these reasons, withdrawal of the rejection is respectfully requested.

### **Claim Rejections – 35 U.S.C. § 103**

Claims 73-76, 78, and 79 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Richmond et al. (U.S. Patent No. 5,582,252; hereafter "*Richmond*") in view of Brown (U.S. Patent No. 3,524,325; hereafter "*Brown*").

Claim 78 has been canceled, rendering the rejection of this claim moot. With regard to claims 73-76 and 79, Applicant has amended base claim 73, obviating the rejection. More particularly, Applicant has amended claim 73 to include a first unbuoyed section of the pipeline extending from the top of an undersea escarpment and a second unbuoyed section of the pipeline extending from the bottom of the undersea escarpment, and at least one positively buoyant inverse catenary section disposed between the first and second unbuoyed sections for traversing the undersea escarpment. As correctly noted by the examiner, *Richmond* is silent with respect to traversing an escarpment. *Brown* does nothing to cure the deficiencies of *Richmond*. Although the Figures in *Brown* may depict an undulating seabed, *Brown* does not teach, show, or suggest a top or a bottom of an escarpment that is traversed, but instead discloses laying the whole pipeline 32 directly on the ocean bottom 22. Col. 4, ll. 67-75. Indeed, if there were an escarpment having a top and a bottom to traverse, the pipeline 32 in *Brown* would likely be stressed to the point of failure, thereby frustrating the undersea complex connection.

Therefore, the combination of *Richmond* and *Brown* does not teach, show, or suggest a first unbuoyed section of the pipeline extending from the top of an undersea escarpment and a second unbuoyed section of the pipeline extending from the bottom of the undersea escarpment,

and at least one positively buoyant inverse catenary section disposed between the first and second unbuoyed sections for traversing the undersea escarpment, as required in claim 73, as amended, and those dependent therefrom. For at least this reason, withdrawal of the rejection and allowance of the claims is respectfully requested.

Claims 58-60, 62, 64, 65, and 80-85 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Richmond* in view of *Brown* and *Moses et al.* (U.S. Patent No. 5,615,977; hereafter "*Moses*").

Claim 84 has been canceled, rendering the rejection of this claim moot. With regard to claims 58-60, 62, 64, 65, 80-83, and 85, Applicant has amended base claims 58 and 80, obviating the rejection. More particularly, claims 58 and 80, as amended, each require a subsea pipeline constructed to carry fluids across an escarpment between a top of the escarpment and a bottom of the escarpment, and a first flexure control device disposed at the top of the escarpment and located between a first unbuoyed pipeline section and a distributed buoyancy region. As discussed above, neither *Richmond*, *Brown*, nor the combination thereof, teaches, shows, or suggests a subsea pipeline constructed to carry fluids across an escarpment between a top of the escarpment and a bottom of the escarpment. As acknowledged by the examiner, *Richmond* also does not teach, show, or suggest a flexure control device. Neither *Brown* nor *Moses*, does anything to cure the deficiencies of *Richmond*. *Brown* is completely silent as to flexure control devices and *Moses* does not teach, show, or suggest a flexure control device disposed at the top of an escarpment and located between a first unbuoyed pipeline section and a distributed buoyancy region. Instead, *Moses* discloses a plurality of flexible couplings 32 disposed between corresponding intermediate pipe sections 30. Col. 4, ll. 54-59.

Therefore, the combination of *Richmond*, *Brown*, and *Moses* does not teach, show, or suggest a subsea pipeline constructed to carry fluids across an escarpment between a top of the escarpment and a bottom of the escarpment, and a first flexure control device disposed at the top of the escarpment and located between a first unbuoyed pipeline section and a distributed buoyancy region, as required in claims 58 and 80, as amended, and those claims dependent therefrom. For at least this reason, withdrawal of the rejection and allowance of the claims is respectfully requested.

Claim 61 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over *Richmond* in view of *Brown* and *Moses*, as applied to claim 58, and in further view of Wittgenstein (U.S. Patent No. 3,173,271; hereafter "*Wittgenstein*").

Applicant respectfully traverses the rejection. *Brown* and *Moses* have been discussed and distinguished above. *Wittgenstein* does nothing to remedy the deficiencies of *Brown* and *Moses*. And since claim 61 includes all the limitations of base claim 58, claim 61 is allowable for at least the same reasons. Withdrawal of the rejection and allowance of the claim is respectfully requested.

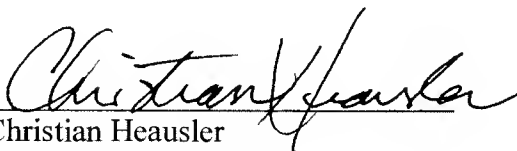
### Conclusion

Having addressed all issues set out in the Office Action, Applicant respectfully submits that the pending claims are now in condition for allowance. Applicant invites the examiner to telephone the undersigned attorney if there are any issues outstanding which have not been addressed to the examiner's satisfaction.

If any fees are due with the noted amendments, the Director is hereby authorized to charge any fees associated with this filing to Deposit Account Number 11-0400 in the name of Kellogg Brown & Root LLC.

Respectfully submitted,

5/3/10  
Date

  
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